IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION NO.8518 OF 1988

For Approval & Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether reporters of local papers may be allowed to see the judgment ?

2. To be referred to the reporters or not ?

3. Whether their lordships wish to see the fair copy of the judgment ?

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950, or any order made thereunder ?

5. Whether it is to be circulated to the Civil Judge?

PRABHUDAS BHAGVANDAS
VERSUS
STATE OF GUJARAT

Appearance:
MR JD AJMERA FOR PETITIONER
MR MA BUKHARI, AGP, FOR RESPONDENTS NO.1, 2 & 3

Coram: MR.JUSTICE S.K. Keshote,J
Date of decision: 11/08/2000

C.A.V. JUDGMENT

#. Having heard the learned counsel for the parties, I

am satisfied that this petition is wholly misconceived. The petitioners are rank trespassers and their possession on the Government land cannot be protected. Though the respondents have stated that the land in dispute is reserved for Archeological Survey of India, it is not relevant for this court for what purpose this land has been reserved by the respondents. The petitioners have come up in this court for seeking relief in their favour under its extra ordinary equitable jurisdiction. They have to show their right over the land. They failed to show any right whatsoever and their possession is that of a rank trespasser. Howsoever long possession of a trespasser may be there on the Government land, he continues to be a trespass.

#. The learned counsel for the petitioners contended that the land now vests in the Panchayat and the Panchayat is necessary party as the Panchayat may allot this land to them.

#. I fail to see any justification in this contention of learned counsel for the petitioners. Firstly, there is nothing on the record to show that this land vests in the Panchayat. Otherwise also, if this land vests in the Panchayat, status of the petitioners will continue to be of rank trespassers. This court cannot give any direction to the Panchayat to regularize their possession. In view of these facts, the action of the respondent No.3 to give notice to the petitioners to remove their possession from the land in question is perfectly legal and justified to which no exception can be made. In case under Article 226 of the Constitution of India, court protects rank trespassers, then it will perpetuate illegality. Even for the removal of possession of the rank trespasser from the Government land, no notice needs to be given. Reference in this respect may have to the decision of the Division Bench of this court in the case of Anupam Rekdi Cabin Association v. Jamnagar Municipal Corporation, reported in 1995(1) GLH 586.

#. As a result of aforesaid discussion, this writ petition fails and the same is dismissed. Rule discharged. Interim relief earlier granted stands vacated. In the facts of this case, no order as to costs.

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(sunil)